

APPENDIX A**Texas Habitual Criminal Statutes****(1) Article 63 is involved in this case:**

"Whoever shall have been three times convicted of a felony less than capital shall on such third conviction be imprisoned for life in the penitentiary."

(2) Other statutes:**Article 61:**

"If it be shown on the trial of a misdemeanor that the defendant has been once before convicted of the same offense, he shall on a second conviction receive double the punishment prescribed for such offense in ordinary cases, and upon a third or any subsequent conviction for the same offense, the punishment shall be increased so as not to exceed four times the penalty in ordinary cases."

Article 62:

"If it be shown on the trial of a felony less than capital that the defendant has been before convicted of the same offense, or one of the same nature, the punishment on such second or other subsequent conviction shall be the highest which is affixed to the commission of such offenses in ordinary cases."

Article 64:

"A person convicted a second time of any offense to which the penalty of death is affixed as an alternate punishment shall not receive on such second conviction a less punishment than imprisonment for life in the penitentiary."

APPENDIX B

Comparison of Certified Judgments of Same Conviction
State's Exhibits 5 and 6

[] indicate omissions in 6
(italics) indicate additions in 6

No. 6711

THE STATE OF TENNESSEE,

VS.

JAMES BURGETT.

Came the [Assistant] Attorney-General for (*on the part of*) the State and the Defendant in proper person [and without counsel]. [The Defendant being charged and arraigned hereon pleads guilty to a charge of forgery. Theretupon a jury of good and lawful men, citizens of Maury County, Tennessee, was duly elected and impaneled, to-wit:] (*who being arraigned at the bar of the Court, and charged on the bill of indictment, pleads guilty to the same ((and for his trial puts himself upon the country, and the attorney-general doth the like)), when to try the issue thus joined between the State of Tennessee and the Defendant James Burgett came a jury of good and lawful men, who had been duly elected, tried and sworn to well and truly try said issue of facts joined between the State of Tennessee and said Defendant James Burgett, and fix the punishment of said Defendant; said jury being composed of the following, to-wit:*)

Charlie Hood
 B. S. Jackson
 Elbert Elmm
 Joe Scannella (*Seannella*)
 W. R. Greenfield
 Clarence Dodd
 English Gibson
 Richard Lindsey
 Mack Hardison
 F. A. Connelly
 H. B. Littlejohn
 C. B. Dodson

[who were charged and sworn in all things to well and truly try the issues joined between the State of Tennessee as the Plaintiff and James Burgett as the Defendant; upon a plea of guilty to a charge of forgery and a true verdict render according to the law and the evidence.

Without leaving the jury box and upon the recommendation of the Assistant Attorney-General, the jurors aforesaid upon their oaths aforesaid did say, "We, the jury, find the Defendant guilty as charged and recommend that his punishment be fixed at nor (sic) more than three years in the State Penitentiary".]

(After said jury had heard the evidence, argument of counsel and the charge of the court, they retired to consider of their verdict, and they then returned into open court, and they said, according to their oath to make a true deliverance, and fix the punishment, according to their charge, that they find the Defendant guilty of forgery, and fix his punishment at three years in the penitentiary house of this State. Whereupon the Court proceeded to pass sentence upon the Defendant, according to the finding of said jury, that is the Defendant shall serve an indeterminate sentence of not less than three years, nor more than three years in said penitentiary house to run concurrently with No. 6709, that said Defendant be rendered infamous, and in-

capable of giving evidence in any of the courts of this State, or of exercising the privilege of the elective franchise; that he pay the cost of this prosecution, for which execution will issue.)

[Whereupon it is ordered by the Court that Defendant be confined at hard labor in the State Penitentiary for a period of not less than three (3) nor more than three (3) years and that he pay all the costs of this cause for which execution may issue. It is further ordered that the sentence in this case run concurrently with the sentence in Case No. 6709.

Order that he be remanded to jail subject to the orders of the Warden of the State Penitentiary. SS: Joe M. Ingram, Judge]